

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PRIEST,

Plaintiff,

v.

BENTLEY, et al.,

Defendants.

No. 2: 21-cv-0058 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

On March 30, 2021, service of process was returned unexecuted on defendant Bentley because such individual is deceased. (ECF No. 19.) On April 2, 2021, the undersigned issued an order directing the Clerk of the Court to serve a copy of the USM-285 form and the April 2, 2021 order on plaintiff in light of the suggestion of defendant Bentley's death on the record. (ECF No. 20.) The undersigned found that service of the USM-285 form would invoke the ninety-day time limit for filing a motion for substitution pursuant to Federal Rule of Civil Procedure 25(a)(1). That time period has now expired, and no motion for substitution has been filed.

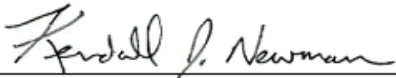
Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall appoint a district judge to this action; and

IT IS HEREBY RECOMMENDED that defendant Bentley be dismissed.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after service of these findings and recommendations, any written objections may be filed with the
2 court. The document should be captioned “Objections to Magistrate Judge’s Findings and
3 Recommendations.” Any response to the objections shall be filed and served within fourteen
4 days after service of the objections. Failure to file objections within the specified time may waive
5 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: September 24, 2021

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8 KENDALL J. NEWMAN
9 UNITED STATES MAGISTRATE JUDGE
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